

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION

RON ALLEN HUNTERJR.,)	
)	
Plaintiff)	1:23-CV-00287-RAL
)	
vs.)	RICHARD A. LANZILLO
)	Chief United States Magistrate Judge
WARDEN SUTTER, LT. VOLZ, CO.)	
PATTERSON, CAPTAIN SHAWN BOLT,)	ORDER ON MOTIONS TO AMEND
DEPUTY WARDEN BRYANT, DEPUTY)	COMPLAINT
WARDEN HOLLMAN, DEPUTY MAJOR)	
WARDEN OF SECURITY SEYMOUR,)	INRE: ECF NO. 27, 28, 29
)	
Defendants)	

Now pending are three motions to amend his complaint filed by Plaintiff Ron Allen Hunter (“Hunter”). *See* ECF Nos. 27, 28, 29. In these motions, Hunter appears to request that certain claims and relief be added to his complaint, including a claim for intentional infliction of emotional distress (ECF No. 27), pre-judgment interest (ECF No. 28), and a claim for abuse of process and punitive damages (ECF No. 29), among other things. The motions are denied.

As a general rule, Courts do not authorize piecemeal amendment or gradual supplementation of the operative pleading over time, which is essentially what Hunter is attempting to in these motions. *Brown v. Little*, 2022 WL 16951991, at *5 (W.D. Pa. Oct. 27, 2022), *report and recommendation adopted*, 2022 WL 16950407 (W.D. Pa. Nov. 15, 2022). Allowing the filing of partial amendments or fragmented supplements to the operative pleading “presents an undue risk of piecemeal litigation that precludes orderly resolution of cognizable claims.” *Id.* (citing *Uribe v. Taylor*, 2011 WL 1670233, at *1 (E.D. Cal. May 2, 2011) (denying pro se plaintiff’s motion seeking to provide the court with updated information, dismissing

plaintiff's complaint, and granting leave to file an amended complaint "so that all of his allegations and claims can be presented in a single pleading."). Moreover, "an amended pleading supersedes the original pleading and renders the original pleading a nullity." *Garrett v. Wexford Health*, 938 F.3d 69, 82 (3d Cir. 2019). "Thus, the most recently filed amended complaint becomes the operative pleading." *Id.* And, while the court must liberally construe pro se pleadings, "liberal construction of a pro se amended complaint does not mean accumulating allegations from superseded pleadings." *Argentina v. Gillette*, 2019 WL 2538020, at *1 n.3 (3d Cir. June 20, 2019). For all of these reasons, Hunter's motions are denied.

However, given Hunter's status as a pro se litigant, and because the Defendants have yet to answer or otherwise respond to the original complaint, Hunter may file an amended complaint that includes all of his claims and requests for relief in one document. Attached as an addendum to this Order are detailed instructions for filing an amended complaint. Hunter's amended complaint is due on or before FRIDAY, MAY 3, 2024.

DATED this 18th day of April, 2024.

BY THE COURT:

A handwritten signature in black ink, appearing to read "R. Lanzillo", is written over a horizontal line.

RICHARD A. LANZILLO
CHIEF UNITED STATES MAGISTRATE JUDGE

ADDENDUM TO ORDER

Instructions for Filing an Amended Complaint

An amended complaint takes the place of the complaint (and prior amended complaints), and therefore must be complete in all respects. A complete pleading has a proper caption and heading, identifies all parties to the action, addresses jurisdiction and venue, sets forth the material facts, asserts all legal claims, is signed and dated, and, if Plaintiff so chooses, is verified. Plaintiff must also attach to the amended complaint any exhibit he or she wishes the Court to consider in connection with the allegations of the amended complaint, including any exhibit(s) attached to a previous complaint. Specific instructions follow.

I. STEP 1: Caption and Heading

1. **Court name:** type (or write) the name of the Court at the top center of the first page.
2. **Party Names:** below the name of the court and district, write the names of the Plaintiff(s) and Defendant(s) on the left side of the paper.
3. **Case number:** write the case number to the right of the party names.
4. **Title of the complaint:** write the title of the complaint under the case number.
5. **Jury Trial:** if you want a jury trial, write “Demand for Jury Trial” below the title.

II. STEP 2: Format the Amended Complaint

Numbered Pages: number each page of the amended complaint.

Numbered Paragraphs: number each paragraph of the amended complaint.

Sections: the amended complaint should include the following numbered sections –

- III. **Jurisdiction:** *why does the Federal Court have jurisdiction over this civil suit?*
- IV. **Venue:** *why are you suing in the Western District of PA?*
- V. **Parties:** *who are the plaintiffs and defendants?*
- VI. **Statement of Facts:** *what are the relevant facts of the case?*
- VII. **Injuries:** *what injury(ies) did you suffer?*
- VIII. **Legal Claims:** *what legal claims are you asserting, against whom, and why?*
- IX. **Request for Relief:** *what relief are you seeking?*

Optional Sections:

- X. **Exhibits:** you may attach documents to the amended complaint that are *relevant* to the facts alleged. At the top or bottom of each exhibit, label it sequentially as: “Exhibit A,” “Exhibit B,” Exhibit C,” etc. You must *re-attach* to the amended complaint any exhibit attached to a prior version of your complaint that you wish the Court to include on the record.
- XI. **Verification:** declare under penalty of perjury that the facts alleged are true and correct to the best of your knowledge.

XII. STEP 3: Draft the Sections of the Complaint

I. Jurisdiction:

You must inform the Court why the case should be heard in federal court rather than state court or some other forum. If the action is generally one for a violation of civil rights, 42 U.S.C. § 1983, the Court will normally have jurisdiction pursuant to 28 U.S.C. § 1331 and § 1343. If you are also bringing state law claims, the Court can exercise supplemental jurisdiction over these claims pursuant to 28 U.S.C. § 1367.

II. Venue:

28 U.S.C. § 1391 stipulates that venue is proper in the Western District of Pennsylvania if (1) all defendants reside in Pennsylvania and at least one of the defendants resides in the Western District or (2) if “a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated” in the Western District.

III. Parties:

For each *plaintiff* – state their name, where they currently reside, and where they resided at all times relevant to the facts alleged in the amended complaint (even if the same).

For each *defendant* – state their name, job or title, and, if known, their employer and job responsibilities. If you are asserting a cause of action under § 1983, you must also state whether the defendant is being sued in his or her individual and/or official capacity. Further, for your action to be heard in federal court under Section 1983, you must allege that the defendant(s) was acting under the authority or color of state law at the time of the claims alleged in the amended complaint (i.e., he was, or appeared to be, at work).

IV. Statement of Facts:

The statement of facts set forth the relevant details of your case. You should be aware that, in civil rights cases, more than conclusory and vague allegations are required to state a cause of action under 42 U.S.C. § 1983. You should include references to relevant dates, times, and locations. You should explain to the Court what happened by specifically describing each defendant's behavior or action and how that behavior or action – or lack of action – resulted in the alleged violation. It is generally best to relate the relevant facts in chronological order. You may not allege new or additional facts nor assert new legal claims in brief in opposition to a motion to dismiss the amended complaint. Thus, be sure to include in your amended complaint all facts you believe to be relevant and all legal claims you intend to assert. You *should not* include legal argument and citations to case law in your amended complaint.

V. Injury

You must state as specifically as possible the actual injury suffered from the action of the defendants that resulted in the alleged civil rights violation. Simply stating that your civil rights have been violated is insufficient.

VI. Legal Claims (or “Causes of Action”):

You should state what rights under the Constitution, laws, or treaties of the United States you allege the defendant or defendants have violated. If you are asserting more than one legal claim, the “Claims” section should be divided into “Counts” (*i.e.*, “Count I,” “Count II,” etc.). Below the count number, state the cause of action and which Defendant(s) the cause of action is asserted against (*i.e.*, COUNT II: 8th Amendment conditions of confinement claim against [Defendant's Name] and [Defendant's Name]). Then, continuing with the numbered paragraphs, describe how each Defendant's conduct violated the federal or state right at issue. Your amended complaint must reassert any legal claim from your prior complaint that you intend to continue to pursue in your lawsuit.

VII. Request for Relief:

You must describe for the Court the relief you are seeking as a result of this lawsuit (an injunction, compensatory damages, etc.). The relief requested must be specifically related to the injury suffered. Here, you may also re-state your demand for a jury trial.

XIII. STEP 4: Sign and Date

Federal Rule of Civil Procedure 11 requires you to sign “[e]very pleading, written motion, and other paper . . . by a party personally if the party is unrepresented” to certify that the (1) pleading “is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation”; (2) the legal claims asserted “are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law”; (3) “the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery”; and (4) the pleading otherwise complies with the requirements of Rule 11. Fed. R. Civ. P. 11(b). To properly certify that the complaint complies with Rule 11, you must date the complaint, sign it, and write your name and address below your signature.

XIV. STEP 5: Verify the Amended Complaint

A verified complaint is a declaration under oath that the contents of the document are true and correct under penalty of perjury, pursuant to 28 U.S.C. § 1746. Verifying the amended complaint allows it to be treated as a sworn declaration if the action survives the pleadings stage (*i.e.*, it may be used as an affidavit in response to a later motion for summary judgment). However, it also subjects you to the penalties of perjury if you know that the allegations of the amended complaint are false or otherwise lack a reasonable basis in fact. Verification is *optional*.

To verify the amended complaint, title a separate piece of paper “Verification” (or write this header and the following below your signature if there is room), and write: “I, [your name], verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed on [date].” *See* 28 U.S. Code § 1746(2). Then sign your name.

The following is an example:

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

[Plaintiff(s) Name(s)],)	CASE NO: _____
Plaintiff)	
vs.)	AMENDED COMPLAINT
)	
[Defendant(s) Name(s)])	DEMAND FOR JURY TRIAL
Defendants)	

AMENDED COMPLAINT

I. Jurisdiction: *why does the Federal Court have jurisdiction over this civil suit?*

1. ...

II. Venue: *why are you suing in the Western District of PA?*

2. ...

III. Parties: *who are the plaintiffs and defendants?*

3. ...

4. ...

IV. Statement of Facts: *what are the relevant facts of the case?*

5. ...

6. ...

7. ...

8. ...

9. ...

V. Injuries: *what injury(ies) did you suffer?*

10. ...

11. ...

VI. Legal Claims: *what legal claims are you asserting, against whom, and why?*

Count I: [Legal Claim] against [Defendant(s)]

12. ...

13. ...

14. ...

Count II: [Legal Claim] against [Defendant(s)]

15. ...

16. ...

17. ...

VII. Request for Relief: *what relief are you seeking?*

18. ...

19. ...

Date: _____

Signature: _____

Name

Address

Verification

I, [your name], verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed on [date].

Signature: _____